



ORANGE COUNTY
BUSINESS COUNCIL

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February 11, 2015

Cathy Green, President
Board of Directors
Orange County Water District
P.O. Box 8300
Fountain Valley, CA 92728-8300

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O.C.W.D

Re: North and South Orange County Basin Groundwater

Dear President Green:

We thought we had an agreement toward a worthy goal: collaborative groundwater cleanup.

- OCWD has lost two major court cases alleging contamination of North and South Basins.
- OCWD has shaken down businesses for over \$50 million in alleged contamination settlement funds without cleaning up one drop of water.
- OCWD has stopped businesses from cleaning up their own sites.
- OCWD itself has been found by the court to be a polluter of perchlorate in Orange County's groundwater.
- OCWD now owes millions of dollars per numerous court orders to reimburse businesses for costs incurred in defending litigation.

We are suffering the worst drought in hundreds of years. To meet the goal of clean water, we agreed with you to develop a course of conduct that would allow for cooperative cleanup of alleged groundwater contamination as it saves time and money for government, business, ratepayers and taxpayers, especially in a time of future water rationing.

To that end, last year Orange County Business Council backed away from its support of proposed state legislation that your staff claimed negatively impacted OCWD. We agreed that a Memorandum of Understanding (MOU) would be developed among state agencies and business that would allow for cooperative cleanup based upon federal NCP cleanup standards—because OCWD had no cleanup standards of its own. After much delay by your staff, the MOU was finally approved by your board. At no time did the business community or OCBC ever agree to an NCP process for the pre-determined purpose of designating large areas of Orange County as Superfund sites, and certainly not a process where OCWD is the only PRP polluter that participates. We expected early consultation with PRP's and stakeholders. None of this has yet to begin.

Now instead of pursuing the principles behind the MOU, reaching out to businesses and agencies to begin a cooperative process, OCWD staff pursued secret meetings with DTSC and EPA to designate areas in Tustin, Santa Ana, Irvine, Anaheim and Fullerton as state or federal Superfund sites. On September 17, 2014, Michael Markus, OCWD General Manager, stated to me personally that OCWD was going to "stand-down" on Superfund designation; in his opinion written for the *Orange County Register* on January 30, 2014, he stated "OCWD does not intend to seek superfund designation at this time" yet secretly your staff supported DTSC's written request on November 25, 2014 for Superfund designation for the North Basin. Your team even retained Keith Takata, former EPA Superfund administrator, on your behalf, to advance this objective.

Ms. Cathy Green
February 11, 2015
Page 2 of 2

In addition, OCWD's team has even revived litigation, contrary to your direction. Sadly, they have targeted a 90 year old widow who had not used a single chemical and had no clue what processes her tenants used. Ironically, OCWD did not pursue the actual user and alleged polluter, but the widow herself had to bring that company to court. Mr. Markus reported to the *Orange County Register* on January 30 touting this as one of two recent "settlements" yet on February 6, 2015, Markus' lawyers filed court papers, breaking off settlement negotiations for an agreed upon site cleanup, in order to start trial. This is shameful.

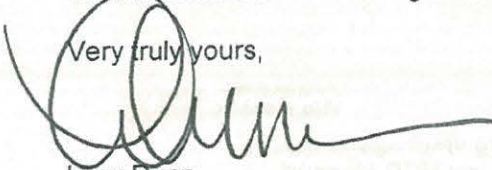
This is a completely misdirected, unprecedented and alarming strategy affecting Orange County's economic development, job retention, property values and investment. OCWD does not need EPA and DTSC to comply with our agreed-upon transparent, public and open NCP process. OCWD can do this itself, working with us and the stakeholder community.

Respectfully, once again, we ask:

- Instruct your staff to immediately cease and desist from secret activities and keep to your commitment for cooperative cleanup of sites.
- Send DTSC and EPA Region IX letters confirming that OCWD does not seek Superfund designations at this time and therefore opposes DTSC's request in its November 25 letter seeking federal listing.
- Publicly notice any and all "task force" meetings of local, state and federal agencies to include your stakeholders and business community and encourage our participation.
- * • Instruct your staff to use the board-approved MOU, present it to DTSC, EPA Region IX, the Regional Water Quality Control Board and private property owners as the roadmap for collaborative cleanup of sites.
- Instruct your staff to work today with the business community to develop the collaborative process under NCP cleanup standards.

Orange County Business Council stands committed to its agreement with you. We look forward to your actions demonstrating OCWD's commitment in return.

Very truly yours,



Lucy Dunn
President and CEO
Orange County Business Council

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Cc: OCWD Board of Directors
MWDOC
MWD
Santa Ana Regional Water Quality Control Board
DTSC
EPA Region IX
OC Water Producers Committee
OC Board of Supervisors
OC Legislative Delegation
OC Congressional Delegation
Cal EPA